IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 9199 of 2004

Between:

J.C. Subbaiah, S/o Suryanarayana Murthy,
Department of Commerce and Management Studies, Andhra University, Visakhapatnam.

..... PETITIONER

AND

1 The Andhra University, rep. by its Registrar,
Visakhapatnam - 530 003.
2 The Vice Chancellor, Andhra University, Visakhapatnam - 530003.
3 Prof. Y.C. Simhadri, Vice Chancellor,
Andhra University, Visakhapatnam - 530003.
4 Head of the Department, Department of Commerce and Management Studies,
Andhra University, Visakhapatnam - 530003.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ, order or direction more in the nature of writ of Mandamus declaring the action of the 2nd respondent in issuing the impugned proceedings in No.S.III (1)/197/95, dated 15-5-2004 as illegal, arbitrary, malafide and without power or authority offending Art. 14, 16 and 21 of the Constitution of India and consequentially to direct the respondents to continue the petitioner in any one of the post of Assistant Registrar in the Andhra University and

Counsel for the Petitioner:MR.M.SUDHIR KUMAR

Counsel for the Respondent : DR.P.B.VIJAY KUMAR FOR RVAK.1 TO 4

The Court made the following :

The Hon'ble Sri Justice

K.C. Bhanu

W.P. No. 9199 of 2004

O R D E R:

Heard the learned counsel for both sides and at their request the writ petition itself is taken up for disposal.

It is the case of the petitioner that he is working as an Assistant Registrar in the Andhra University, Valtair. A disciplinary action is initiated against one Dr. Koti John who is working as Assistant Professor in Industrial Relations and Personal Management (IRPM). The 3rd respondent after coming to know about the visits of the said John to the house of the petitioner abused him for which the petitioner strongly protested. The 3rd respondent developed grudge against the petitioner and transferred him from the post of Assistant Registrar (Administration) to the post of Assistant Registrar (Department of Commerce). Accordingly he joined in the said post on 27.9.2003. Having not satisfied with the said transfer, another proceedings dated 22.3.2004 were issued transferring him on deputation to A.U. Study Centre, C.S.R. Sarma College, Ongole. Again he was relieved but the said proceedings were kept in abeyance. He made a representation dated 21.4.2004 bringing the said fact to the notice of the authorities and requested them not to transfer him outside Visakhapatnam. Without any reference, the impugned proceedings have been issued posting him to A.U. Study Centre, CSR Sarma College, Ongole. It is stated that there is no post of Assistant Registrar at any of the A.U. Study Centres much less the so called A.U. Study Centre, CSR Sarma College, Ongole. There is no budgetary allotment to the post of Assistant Registrar at any of the

study centres. Hence he was posted to a non-existing post. The Principal and Coordinator of CSR Sarma College is neither his superior nor was an employee of the University and that the petitioner is due to retire in the month of July 2005. The 3rd respondent has no power or authority to transfer the Assistant Registrar. It is the executive council who has to take a decision for transfer. Hence the present writ petition.

The 1st respondent filed the counter affidavit stating that it is a case of simple transfer from one place to another depending upon the administrative exigencies. Andhra University, Visakhapatnam is having several study centres throughout the country. One such study centre is located at CSR Sarma College, Ongole. As on today the University has 150 students studying B.A., 27 students studying B.Com., and 360 students studying Post-Graduate courses. In order to explore and to increase the number of students, the School of Distance Education has been requesting the Vice Chancellor to deploy additional staff for strengthening and ensuring an effective functioning of these study centres. The present petitioner is assigned with the job of undertaking the same at Ongole. Likewise, one Superintendent in S.III Section of Registrar's Office has been posted to Vijayawada. It is admitted that there is no post of Assistant Registrar at A.U. Study Centre, but basing on the need and necessity of strengthening the study centres, appropriate steps have been taken to post the petitioner at Ongole and another Superintendent at Vijayawada. The University wanted to entrust some of the functions to senior most officials to undertake necessary task of coordination and conducting the examinations. The University in its wisdom is entitled to make use of its officials and post at any place basing on the administration need and necessity. The Vice-Chancellor is the Academic Head and the Principal Executive Officer of the University and is entitled to exercise the general control over the affairs of the University and effecting transfers. Hence, he prays to dismiss the writ petition.

The 3rd respondent also filed an affidavit stating that as the Chief Executive Officer he can effect transfers and he denied the allegations made in paras 3(b) to (d) of the writ affidavit. It is further stated by the 3rd respondent that the petitioner was transferred from one Department to another within the University premises; therefore the writ petition may be dismissed.

A reply affidavit has been filed by the petitioner stating that the statement in the counter affidavit by the 1st respondent that there is a study centre at CSR Sarma College, Ongole is false and the so-called study centre at Ongole and its potentiality are all imaginary and invented. The transfer of Superintendent working in S.III Section of Registrar's office to Vijayawada is an irrelevant factor. There is no office or any establishment for the respondent-University at Ongole. The averment that as desired by the Director of School of Distance Education he was transferred is false. That the Andhra University has got only 8 study centres which have got a sanctioned staff but does not include Assistant Registrars and the 2nd respondent is not entitled to shift the post of Assistant Registrar to the study centre without the approval of the Executive Council. Hence, he prays to allow the writ petition.

Though a specific plea has been taken that the Vice Chancellor has no power to transfer the Assistant Registrar from one place to another, but during the course of arguments it is specifically conceded by the learned counsel for the petitioner that he has got the power to transfer. The counsel for the petitioner Sri M.R.K. Chowdary raised three contentions with regard to transfer. One is, attributing mala fides to the Vice Chancellor, the second is that no post of Assistant Registrar is available at the place to which the petitioner was transferred and that no study centre is located at Ongole and the third is, that the transfer is not made on deputation and if it is deputation, the consent of the official is necessary.

On the other hand, the learned standing counsel for the respondent-University Dr. PBV Vijay Kumar contended that there is a

study centre at Ongole. The employees of the University are required to work anywhere only temporarily so as to strengthen the study centres, for which no post is required. As soon as the purpose is over, the employee will be called back to the University. The petitioner is not required to work under the private management. The study centre at Ongole is an independent centre and the so-called mala fides are invented and that the petitioner is temporarily deployed to work at the study centre, Ongole and it is not the only instance of such transfer as another employee working in the University was also transferred to Vijayawada and, therefore, interfering with the impugned proceedings would only amount interfering with the administration of the University.

The petitioner was transferred by the proceedings dated 15.5.2004 and posted at A.U. Study Centre, C.S.R. Sarma College, Ongole and, it is stated in the said proceedings, that he is deemed to have been relieved of his duties on 15.5.2004. On 26.9.2003, the Registrar issued the proceedings transferring the petitioner to the Department of Commerce and Management Studies in the retirement vacancy in which the petitioner joined. By proceedings dated 22.3.2004, the Vice Chancellor transferred the petitioner on deputation to Andhra University Study Centre, CSR Sarma College, Ongole, but the said proceedings have been kept in abeyance. Thereafter the petitioner gave representation to the concerned authority on the ground that he was unable to shift his family due to several reasons mentioned therein.

Certain mala fides are attributed against the 3rd respondent as mentioned in paras 3(b), (c) and (d) of the writ affidavit and the said allegations have been denied by the 3rd respondent. Therefore, it is a question of fact which cannot be gone into by this court sitting under Article 226 of the Constitution. The second ground which the learned counsel for the petitioner contends is that there was no post of Assistant Registrar at A.U. Study Centre, CSR Sarma College, Ongole, therefore, he cannot be transferred. Admittedly

there is no post of Assistant Registrar at A.U. Study Centre, Ongole. The School of Distance Education, formerly School of Correspondence Courses of Andhra University was established on 1st July, 1972 with the objective of increasing the access of higher education to disadvantaged sections of the society. The School of Distance Education is run by skilled teachers and educational administrators who always strive to reach high academic standards. Keeping in view the objectives for which the School of Distance Education is set-up, some officers working in the University on administration side have been transferred to different study centres. Some of the proceedings of the Vice Chancellor in respect of transfer of those employees to the Study Centres have been filed. Vide proceedings dated 10.6.1994, one Senior Assistant was transferred to Study Centre, Hyderabad. Even a Deputy Registrar was transferred to Study Centre at Machilipatnam vide proceedings dated 8.6.2004. A superintendent was transferred to A.U. Study Centre, Vijayawada. Basing on the request made by the Centre for Distance Education, the University has taken a decision to deploy additional staff to cater to the needs of the students for their successful completion of the course. The Director of Distance Education in his letter dated 10.3.2003 requested the University to deploy the staff of the cadre of Attender to Deputy Registrar to the Study Centres. It is not a transfer or a deputation. It is only a deployment. In case of transfer, there must be a post of Assistant Registrar on Ongole. As the enrolment of the students for not only Degree Examinations but also to the Post Graduate examinations has been considerably increased, to strengthen the School of Distance Education the University has taken a decision to send additional staff to the study centres depending upon the number of students by deploying them. As soon as the purpose is over, the employee will be recalled by the University. For that reason, there need not be any post. Therefore, the contention of the learned counsel for the petitioner that there is no post of Assistant Registrar at A.U. Study Centre, Ongole is not acceptable for the reason that the petitioner was deployed to manage the study centre at Ongole not in the cadre of Assistant Registrar.

The other ground which the learned counsel for the petitioner vehemently contended is that there is no study centre at all at Ongole. I am unable to accept this contention because the Prospectus for undergraduate courses of the School of Distance Education filed by the learned counsel for the petitioner shows that the Andhra University has got 33 study centres located at different places, one among them is at CSR Sarma College, Ongole. Being an employee of the University, the petitioner went to the extent of saying that there is no study centre at Ongole, which is clearly incorrect. The paper notification issued by the School of Distance Education would also go to show that CSR Sarma College, Ongole has got a Study Centre. The study centres can be established anywhere. Therefore, the contention of the learned counsel for the petitioner that the University is constituted for a specified jurisdiction and it cannot constitute its colleges beyond that jurisdiction is unacceptable because beyond the jurisdiction the study centres have been established. Even otherwise, that aspect cannot be decided in this writ petition in the absence of any specific challenge.

The other ground which the learned counsel for the petitioner contended is that in case of other employees there was a deputation to the study centres but in the case of the present petitioner it was a transfer but not a deputation; if it is a deputation, the consent of the official is necessary and that the petitioner did not give any consent. The impugned proceedings do not indicate that he was transferred on deputation. It would go to show that the petitioner was transferred and posted to A.U. Study Centre, CSR Sarma College, Ongole in pursuance of the request made by the School of Distance Education and in pursuance of the decision taken by the University to deploy additional staff to the study centres to strengthen them and also to cater the needs of the students. To achieve that object, the present petitioner was transferred. Therefore, the impugned transfer order, in my considered opinion, does not suffer from any legal infirmities so as to call for any interference by this

court. It is only temporary deployment so as to strengthen the study centres.

Hence, there are no grounds to interfere with the impugned proceedings. The writ petition is devoid of merits and it is accordingly dismissed at the stage of admission.

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K.C. Bhanu, J.

Dt. 16 –07—2004.

MVB**.**

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

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Visakhapatnam - 530 003.
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